

EXHIBIT 2

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1 (The following occurred in the absence of the jury.)

2 THE COURT: I understand you have some issues with
3 the exhibits. That's fine. We will work it out.

4 Let's get the jury charged and instructed and we can
5 work out the exhibits even while they are deliberating. So
6 don't worry about it.

7 Bring in the jury, please.

8 (Jury present.)

9 THE COURT: All right. Be seated, please.

10 Ladies and gentlemen, now that the evidence in this
11 case has been presented and the attorneys have concluded their
12 closing arguments, it is my responsibility to instruct you on
13 the law that governs this case. The instructions I am going
14 to give you will be in three parts.

15 First, I am going to instruct you on the general
16 rules that govern your duty as jurors in a civil case.
17 That's the longest part of the instructions.

18 Second, I am going to instruct you on the legal
19 elements of the plaintiffs' claims; and then, third -- and
20 it's very brief, the third section -- I will give you some
21 principles that you will use in your deliberations.

22 You are about to enter your final duty, which is to
23 decide the fact issues in this case. It has been very obvious
24 to me, and I'm sure to counsel for the parties, that you have
25 faithfully discharged your duty to listen carefully and

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1 observe each witness who testified. Your interest never
2 lagged in this long trial and you followed the testimony with
3 close attention. I also want to thank each of the attorneys
4 for the very conscientious efforts that they undertook on
5 behalf of their clients.

6 Please give me the same careful attention now that
7 you did the evidence during the trial.

8 You have heard all the evidence in the case, as well
9 as the final arguments of the lawyers for the parties. My job
10 at this point is to instruct you on the law. It is your duty
11 to accept these instructions and apply them to the facts as
12 you determine them, just as it has been my duty to preside
13 over the trial and decide what testimony and evidence is
14 relevant under the law for your consideration.

15 On these legal matters, you have to take the law as
16 I give it to you. If any attorney has stated a legal
17 principle different from any that I state to you in these
18 instructions, it is my instructions that you have to follow.

19 Don't single out any one instruction alone as
20 stating the law. You have to consider the instructions as a
21 whole when you retire to deliberate in the jury room.

22 You also cannot be concerned about the wisdom of any
23 rule that I state. Regardless of any opinion that you may
24 have as to what the law may be, or should be, it would violate
25 your sworn duty to base a verdict upon any view of the law

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1 other than that which I am about to give you.

2 As members of the jury, you are the sole and
3 exclusive judges of the facts. You pass upon the evidence.
4 You determine the credibility of the witnesses. You resolve
5 such conflicts as there may be in the testimony. You draw
6 whatever reasonable inferences you decide to draw from the
7 facts as you have determined them, and you determine the
8 weight of the evidence. In determining these issues, no one
9 may invade your province or functions as jurors.

10 Remember that in carrying out your duty, you took an
11 oath to render judgment impartially and fairly, without
12 prejudice or sympathy, and without fear, solely upon the
13 evidence in the case and the applicable law. I know that you
14 will do this and reach a just and true verdict.

15 Now, in the course of the trial, it has been
16 necessary for me to rule on the admission of evidence. You
17 must not conclude from any ruling that I have made, or from
18 any question I may have asked, or from anything that I may
19 have said during the course of the trial, that I favor any
20 party to this lawsuit. I do not. I hold no such view, I
21 assure you. It is going to be your recollection of the
22 evidence and your decisions on the issues of fact that will
23 decide this case. You are also to draw no inference from the
24 fact that I occasionally asked questions of certain witnesses.
25 When I did that, that was only intended for clarification or

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1 to expedite matters and certainly it wasn't intended to
2 suggest any opinion on my part as to what verdict you should
3 render, or whether any of the witnesses may have been more
4 credible than any of the other witnesses. You are expressly
5 to understand that I have no opinion as to the verdict you
6 should render in this case. It is entirely up to you.

7 It is the duty of the attorneys on each side of the
8 case to object when the other side offers testimony or other
9 evidence that an attorney believes is not properly admissible.
10 Counsel also have the right and the duty to ask me to make
11 rulings of law and to request conferences at the side bar out
12 of your hearing. All those questions of law have to be
13 decided by me. You should not concern yourselves with, or
14 speculate about, the contents of any discussion that I may
15 have had with the lawyers at the side bar. You also must not
16 bear any prejudice against any attorney or that attorney's
17 client because that attorney objected to the admissibility of
18 evidence or asked for a side bar conference out of your
19 hearing, or asked me to make a ruling on a point of law.
20 That's their job. They are supposed to do that.

21 In reaching your verdict, you are not to be swayed
22 by sympathy for the parties; nor what the reaction of the
23 parties or of the public to your verdict may be, or whether it
24 will please or displease anyone; or be popular or unpopular
25 or, indeed, by any consideration outside the case as it has

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1 been presented to you in this courtroom. You should consider
2 only the evidence, find the facts from what you consider to be
3 the believable evidence, and apply the law as I am now giving
4 it to you. Your verdict will be determined by the conclusion
5 you reach, no matter whom the verdict helps or hurts.

6 It would be improper for you to consider any
7 personal feelings you may have about any of the parties' or
8 the witness' race, religion, national origin, sex or age.
9 Those considerations have no place in this court.

10 The parties in this case are entitled to a trial
11 that is free from prejudice. Our judicial system can't work
12 unless you reach your verdict through a fair and impartial
13 consideration of the evidence.

14 In this case, the defendant is a foreign bank. The
15 mere fact that one of the parties is a bank and is foreign
16 does not mean that it is entitled to any lesser or greater
17 consideration by you. All litigants are equal before the law,
18 and corporations and banks, big or small, foreign or domestic,
19 are entitled to the same fair consideration as you would give
20 any other individual party.

21 In deciding this case, you may only consider the
22 exhibits which have been admitted into evidence, the testimony
23 of the witnesses as you have heard it in this courtroom, and
24 has been read from their sworn testimony before trial --
25 that's the depositions -- and the stipulations entered into by

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1 the parties.

2 Arguments, remarks, and summations of the attorneys
3 are not evidence. Nor is anything that I may have said with
4 regard to the facts of this case. Anything you may have seen
5 or heard about this case outside the courtroom, although I
6 know you all tried really hard not to let that happen, if you
7 did hear anything, that is not evidence and it has to be
8 disregarded.

9 There are two types of evidence that you can
10 consider.

11 One type is called direct evidence. Direct evidence
12 is a witness' testimony, or the contents of a document, about
13 what the witness saw, heard, or observed. In other words,
14 when a witness testifies about what is known to that witness
15 by virtue of the witness' own senses -- what the witness sees,
16 feels, hears or touches -- that's called direct evidence.

17 Circumstantial evidence is evidence that tends to
18 prove a fact by proof of other facts. Here is the example
19 that we use to demonstrate the difference between direct and
20 circumstantial evidence. If you are outside and it is raining
21 and you see rain coming down, you've got direct evidence of
22 it. You see it, with your own eyes. You know it is
23 happening. But we are here in a courtroom and you can't
24 really tell from the window what it is doing outside. You
25 really don't know. But if someone were to walk in here

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1 wearing a dripping wet raincoat and carrying a dripping wet
2 umbrella, you could conclude that it is raining outside. On
3 the other hand, if people keep walking in in coats and they
4 are dry, you could conclude that it is not raining outside.

5 That's all there is to circumstantial evidence. You
6 infer on the basis of reason and experience and common sense
7 from an established fact the existence or the nonexistence of
8 some other fact. Circumstantial evidence is of no lesser
9 value than direct evidence. You alone decide what weight to
10 give to all of the evidence.

11 Some of the evidence that I have admitted in this
12 case or that was shown to you, I told you I was letting that
13 happen for a limited purpose only. When I instructed that an
14 item of evidence was admitted for a limited purpose, you must
15 consider it only for that limited purpose and for no other.

16 If you have any question about whether a particular
17 item of evidence was admitted or shown to you for a limited
18 purpose, just send out a note and we will clarify that for
19 you.

20 The law does not require you to accept all of the
21 evidence that I admitted. In deciding what evidence you will
22 accept, you must make your own evaluation of the testimony
23 given by each of the witnesses, and decide how much weight you
24 choose to give to that testimony. As I mentioned when we
25 started the trial, there is, unfortunately, no magic formula

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1 by which you can evaluate testimony. You bring with you to
2 this courtroom all of the experience and background of your
3 lives. In your everyday affairs, you decide for yourselves
4 the reliability or unreliability of things that people say to
5 you. The same tests that you use in your everyday dealings
6 apply in your jury deliberations here. For example, the
7 interest or lack of interest of any witness in the outcome of
8 the case; the bias or prejudice of a witness, if there is any;
9 the manner in which the witness gives testimony on the stand;
10 the opportunity that the witness had to observe the facts
11 about which the witness has testified; and the probability or
12 improbability of the witness' testimony when considered in
13 light of all of the other evidence in the case, all these are
14 items for you to consider in deciding how much weight, if any,
15 you are going to give to that witness' testimony.

16 If it appears there is a discrepancy in the
17 evidence, you will have to consider whether the apparent
18 discrepancy can be reconciled by fitting the two stories
19 together. If that's not possible, then you will have to
20 decide which of the conflicting stories you will accept.

21 The parties to this lawsuit and some of the other
22 witnesses testified before you. The parties, and some of
23 these witnesses, are considered interested witnesses, which
24 means, they may stand to benefit in some way from the outcome
25 of the case.

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1 An interested witness is not necessarily less
2 believable than a disinterested witness. The fact that the
3 witness is interested in the outcome of the case does not mean
4 that the witness hasn't told the truth. It is for you to
5 decide from the demeanor of the witness on the stand and such
6 other tests as your experience dictates whether or not the
7 testimony has been influenced, whether intentionally or
8 unintentionally, by any interest that the witness has. You
9 may, if you consider it proper under all of the circumstances,
10 not believe the testimony of such a witness, even though it is
11 not otherwise challenged or contradicted. However, you are
12 not required to reject the testimony of such a witness, and
13 you can accept all or such part of that witness' testimony as
14 you find reliable and reject the part that you find unworthy
15 of acceptance.

16 Certain witnesses in this case did not speak English
17 as their first language and had limited abilities speaking and
18 understanding English. An interpreter, as you know, was used
19 during their testimony. You must not make any assumptions
20 about a witness based solely upon the use of an interpreter to
21 assist that witness. The fact that witness' testimony was
22 translated from a foreign language must not be considered in
23 deciding the credibility of the witness: Testimony must not
24 be discounted or disregarded solely because it was translated.

25 The evidence to be considered by you is only that

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1 provided through the official court interpreters for
2 testimony. The same applies with respect to documents in this
3 case, where the parties have agreed to translations. Unless
4 you have been informed of some objection or dispute, you must
5 accept the agreed English interpretation or translation.

6 You have also seen video of and heard the lawyers
7 read portions of documents referred to as examinations before
8 trial, or more familiarly depositions.

9 At some point before this trial began, the witness,
10 under oath, answered certain questions put to him by the
11 lawyers for the parties, or her. We had one female witness, I
12 think. A stenographer recorded the questions and answers and
13 transcribed them into a document which the witness later
14 signed before a notary public. The portions of the transcript
15 of the examination before trial that you heard are to be
16 considered as if the witness were testifying from the witness
17 stand.

18 You have heard testimony from witnesses described as
19 experts. Experts are witnesses who by education, experience,
20 or training have acquired learning or experience in a science
21 or other specialized area of knowledge. Such witnesses are
22 permitted to give their opinions as to relevant matters in
23 which they profess to be experts and give their reasons for
24 their opinions. Expert testimony is presented to you on the
25 theory that someone who is experienced in the field can assist

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1 you in understanding the evidence or in reaching an
2 independent decision on the facts.

3 Your role in judging credibility applies to experts
4 as well as to other witnesses. You should judge this
5 testimony in the same way that you judge the testimony of any
6 other witness. The fact that such a person has given an
7 opinion does not mean that you are required to accept it. In
8 weighing the testimony, you should consider the factors that
9 generally bear upon the credibility of a witness, as well as
10 the expert witness' education, training and experience, the
11 soundness of the reasons given for the opinion, and all other
12 evidence in the case. You should consider the expert opinions
13 which were received in evidence in this case and give them as
14 much or as little weight as you think they deserve. If you
15 decide that the opinion of an expert was not based on
16 sufficient education, experience or sufficient data, or if you
17 should conclude that the trustworthiness or credibility of the
18 expert is questionable for any reason, then you might
19 disregard the opinion of that expert. Furthermore, if the
20 opinion of an expert was outweighed, in your judgment, by
21 other evidence in the case, then you might disregard the
22 opinion of that expert entirely or in part.

23 On the other hand, if you find that the opinion of
24 an expert is based on sufficient data, education, training and
25 experience, and the other evidence does not give you reason to

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1 doubt his or her conclusions, you would be justified in
2 placing great reliance on the expert's testimony.

3 (Continued on next page.)
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1 THE COURT: The expert's opinion is what you must
2 consider. The facts and data upon which an expert based that
3 opinion are not evidence, unless those facts were
4 independently admitted into evidence.

5 Now, you heard me say that the plaintiffs must prove
6 their case by a preponderance of the evidence. The question
7 you naturally have is, "what does a preponderance of the
8 evidence mean?" To establish a fact by a preponderance of the
9 evidence, means to prove that something is more likely true
10 than not true. In other words, preponderance of the evidence
11 means, such evidence that when considered and compared with
12 the evidence opposed to it, has more convincing force, and
13 produces in your mind, the belief, that what is sought to be
14 proved is more likely so than not so.

15 A preponderance of the evidence means, a greater
16 weight of the evidence. It refers to the quality and
17 persuasiveness of the evidence, not the number of witnesses or
18 documents produced by either party.

19 In determining whether a claim has been proved by a
20 preponderance of the evidence, you may consider the relevant
21 testimony of all witnesses, regardless of who may have called
22 them, and all the relevant exhibits received in evidence,
23 regardless of who may have produced them.

24 The burden of proof rests on the plaintiffs. That
25 means, that in order for the plaintiffs to prevail, the

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1 evidence that supports their claim must appeal to you as more
2 nearly representing the truth than the evidence opposed to
3 their claim. If it does not, or if it weighs so evenly that
4 you are unable to say that there is a preponderance on either
5 side, then you must decide the question in favor of the
6 defendant. It is only if the evidence favoring the plaintiffs'
7 claim outweighs the evidence opposed to it that you can find
8 in favor of the plaintiffs.

9 Now, during these instructions, you have heard me
10 use the term, "inference," and in the lawyers' arguments, they
11 asked you to infer on the basis of your reason, experience and
12 common sense from one or more established facts, the existence
13 of some other fact.

14 An inference is not a suspicion or guess. It is a
15 reasoned, logical decision to conclude that a fact exists on
16 the basis of another fact, that you know exists. There are
17 times when different inferences maybe drawn from facts,
18 whether proved by direct or circumstantial evidence. The
19 plaintiffs want you to draw one set of inferences, while the
20 defendant wants you to draw another set of inferences. It is
21 for you and you alone to decide what inferences you are going
22 to draw.

23 The process of drawing inferences from facts in
24 evidence is not a matter of guesswork or speculation. An
25 inference is a deduction or conclusion that you, the jury, are

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1 permitted, but not required to draw, from the facts that have
2 been established by direct or circumstantial evidence.

3 Now, before a case goes to trial, the litigants go
4 through a process called "discovery". In that process, each
5 party is required to turn over documents in their possession
6 that are relevant to the other side's case, as well as have
7 witnesses answer questions posed by that other party.

8 Nevertheless, in this case, the defendant refused to produce
9 certain documents that the plaintiffs requested and refused to
10 permit their witnesses to answer questions during depositions.

11 Accordingly, based on this refusal, you may, but you
12 are not required to infer the following:

13 First, that the defendant provided financial
14 services to Hamas, and to individuals affiliated with Hamas.

15 Second, that defendant processed and distributed
16 payments on behalf of the Saudi Committee to terrorists,
17 including those affiliated with Hamas, the relatives or
18 representatives.

19 And, three, that the defendant did these acts
20 knowingly.

21 Now, because the bank made a complete production of
22 the account records of Osama Hamdan, it is entitled to rely on
23 the files it produced with respect to its state of mind as to
24 that account.

25 Now, the mere existence of an inference against the

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1 defendant, does not by itself relieve the plaintiffs of the
2 burden of establishing their case by a preponderance of the
3 evidence.

4 If the plaintiffs are to obtain a verdict, you must
5 still find from the credible evidence that they have sustained
6 the burden cast upon them. If plaintiffs have failed, then
7 your verdict must be for the defendant. If you should find
8 that all of the evidence is evenly balanced, then the
9 plaintiffs have failed to sustain the burden of proof and your
10 verdict should be for the defendant. If and only if you
11 determine after carefully weighing all the evidence, that the
12 facts favor the plaintiffs by the standard I have articulated,
13 then they have met their burden of proof.

14 All right. Let me turn now to the legal elements of
15 the claim you are going to decide. It is the second part of
16 these instructions.

17 First, let me define for you the word, "knowingly".
18 Because plaintiffs' claims implicate the concepts of knowledge
19 and intent, I'm going to discuss these concepts before
20 addressing the elements of those claims. You should consider
21 the term "knowingly", to have the definition I am about to
22 give, wherever it is mentioned in these instructions.

23 A person acts knowingly, if he acts intentionally
24 and voluntarily, and not because of ignorance, mistake,
25 accident or carelessness. Whether the defendant acted

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1 knowingly maybe proven by its conduct and by all of the facts
2 and circumstances surrounding the case.

3 One way in which plaintiffs can prove that defendant
4 acted knowingly, is by proving that the defendant deliberately
5 closed its eyes to a fact that otherwise would have been
6 obvious to it. In order to infer that defendant deliberately
7 closed its eyes to a fact, you must find that two things have
8 been established.

9 First, that the defendant was aware of a high
10 probability of the fact in question. Second, that the
11 defendant consciously and deliberately avoided learning of
12 that fact. That is to say, defendant willfully made itself
13 blind to the fact. It is entirely up to you to determine
14 whether the defendant deliberately closed its eyes to the
15 fact, and if so, what inference if any should be drawn.

16 However, it is important to bear in mind, that mere
17 negligence or mistake in failing to learn the fact, is not
18 sufficient. There must be a deliberate effort to remain
19 ignorant.

20 Now, the law to be applied to the plaintiffs' claims
21 is the federal Anti-Terrorism Act, Title 18 of the United
22 States Code, Section 2333(a).

23 That statute provides a remedy for individuals who
24 allege they have suffered injury to their person, property, or
25 business by reason of an act of international terrorism.

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1 As part of their claims, plaintiffs must prove that
2 the attacks in which they were allegedly injured were acts of
3 international terrorism. Here, the parties have stipulated
4 that each of the 24 attacks at issue, were acts of
5 international terrorism within the meaning of this statute.
6 Therefore, I instruct you to find that plaintiffs have
7 satisfied this element of their claim.

8 Plaintiffs must also prove that the defendant
9 committed an act of international terrorism. Plaintiffs
10 allege that the defendant committed an act of international
11 terrorism by violating 18 U.S.C., that is United States Code,
12 Section 2339B.

13 A violation of 18 U.S.C. 2339B is itself an act of
14 international terrorism. Therefore, I instruct you as a
15 matter of law, if you find that plaintiffs have proved by a
16 preponderance of the evidence, that the defendant violated
17 section 2339B of Title 18, you must find that plaintiffs have
18 proved that defendant committed an act of international
19 terrorism.

20 So let me now turn to 2339B.

21 Plaintiffs allege that the defendant violated 2339B
22 by knowingly providing material support to a foreign terrorist
23 organization. To prove this portion of their claim,
24 plaintiffs must establish the following elements by a
25 preponderance of the evidence:

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1 First, that the defendant provided material support
2 or resources. For the purposes of this case, the term
3 "material support or resources", means any property, tangible
4 or intangible, or service, including currency, monetary
5 instruments, financial securities, or financial services. If
6 you should find by a preponderance of the evidence that the
7 defendant provided support or resources in any of these forms,
8 then plaintiffs' burden with respect to this first element is
9 met.

10 Second, the plaintiffs must prove that the defendant
11 provided this support or these resources to a foreign
12 terrorist organization, specifically, Hamas. I instruct you as
13 a matter of law, that Hamas has been designated a foreign
14 terrorist organization, by the United States Secretary of
15 State, and was so designated by the Secretary on October 8th,
16 1997.

17 Consequently, if you find by a preponderance of the
18 evidence that the defendant provided any of the types of
19 "material support or resources" that I have just described, to
20 Hamas, or furnished it to any person acting on behalf of
21 Hamas, then plaintiffs' burden with respect to this element
22 will have been met.

23 You should find that the defendant provided material
24 support or resources to Hamas, if you find that the person or
25 entity to which the defendant provided the support or

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1 resources was operating under Hamas' direction or control or
2 if that person or entity was organizing, managing supervising
3 or otherwise directing the operation of Hamas' personnel or
4 resources.

5 Conversely, if plaintiffs do not prove that the
6 person or entity to which the defendant provided the support
7 or resources, was operating under Hamas' direction or control,
8 or that the person or entity was organizing, managing,
9 supervising, or otherwise directing the operation of Hamas'
10 personnel or resources, then you should find that the
11 defendant did not provide material support or resources to
12 Hamas.

13 The third element that plaintiffs have to prove is
14 that in providing material support or resources to a foreign
15 terrorist organization, the defendant did so, knowingly.

16 Now, I previously explained to you the definition of
17 "knowingly", and you should follow those instructions here.
18 For this element to be satisfied, plaintiffs must prove by a
19 preponderance of the evidence, that the defendant knew that it
20 was providing material support to Hamas, and that the
21 defendant also knew:

22 One, that Hamas had been designated by the Secretary
23 of State, as a "foreign terrorist organization", or

24 Two, that Hamas engaged in "terrorist activity", or

25 Three, that Hamas engaged in terrorism.

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1 Now, I have already explained to you that Hamas was
2 designated as a foreign terrorist organization, by the U.S.
3 Secretary of State. If you find that the defendant knew that
4 it was providing material support to Hamas, and knew that
5 Hamas was designated as a foreign terrorist organization,
6 plaintiffs' burden with respect to this element will be met.

7 Alternatively, if you find that the defendant knew
8 it was providing material support to Hamas, and knew that
9 Hamas engaged in "terrorist activity", then plaintiffs' burden
10 with respect to this element would also be met.

11 The term "terrorist activity", includes hijacking or
12 sabotage of an aircraft, vessel, vehicle, train, or other
13 conveyance; seizing, detaining or threatening to kill, injure
14 or further detain any person to compel or coerce some third
15 party, including a government, to do or not do some act; or a
16 violent attack upon an internationally protected person,
17 including employees and officials of governments, and
18 international organizations; assassinations; or the use of any
19 explosive, firearm or other weapon or dangerous device, other
20 than for monetary gain, and with intent to endanger the safety
21 of one or more individuals or to cause substantial damage to
22 property.

23 As a further alternative, if you find that the
24 defendant knew it was providing material support to Hamas, and
25 knew that Hamas engaged in "terrorism", plaintiffs' burden

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1 with respect to this element would also be met.

2 The term "terrorism" means premeditated, politically
3 motivated violence against noncombatant targets by
4 sub-national groups or clandestine agents.

5 Now, those are the elements of this statute.

6 If you find that the defendant violated this Section
7 2339B, by knowingly providing material support or resources to
8 Hamas, you then will have to consider whether the provision of
9 that material support or those resources proximately caused
10 plaintiffs' injuries.

11 To show this, plaintiffs must show that the
12 defendant's unlawful acts were a substantial factor in the
13 sequence of events responsible for causing plaintiffs'
14 injuries and that plaintiffs' injuries were reasonably
15 foreseeable or anticipated as a natural consequence of such
16 acts.

17 An injury is proximately caused by unlawful activity
18 only when the activity, in natural and continuous sequence
19 produces or contributes substantially to producing, such
20 injury.

21 In other words, the unlawful activity at issue must
22 be a substantial and identifiable cause of the injury that
23 plaintiffs claim. Activities that are too remote, too
24 indirect, or too attenuated are insufficient.

25 The plaintiffs are not required to prove the

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1 defendant's alleged unlawful acts were the sole cause of their
2 injuries; nor do plaintiffs need to eliminate all other
3 possible causes of injury. It is enough if plaintiffs have
4 proved that the defendant's acts substantially contributed to
5 their injury, even though other factors may also have
6 significantly contributed as well.

7 I further instruct you that if you find that
8 plaintiffs have not proven that it is more likely than not
9 that Hamas committed a particular attack, you must also find
10 the defendant's acts did not proximately cause plaintiffs'
11 injuries from that attack.

12 By the way, I should let you know, I will give you a
13 copy of these instructions to take in, all right. Don't feel
14 like this is a memory test, you have to remember every word.
15 You will be able to consult.

16 Now, in this trial, the plaintiffs claim that they
17 were injured by 24 separate terrorist attacks allegedly
18 carried out by Hamas. You have to consider each of those
19 attacks separately. To establish defendant's liability for
20 any specific attack, the plaintiffs must prove the elements of
21 liability that I have just explained to you with regard to
22 that specific terrorist attack.

23 That is, for each attack, plaintiffs must prove that
24 Hamas committed the attack, that defendant knowingly provided
25 material support to Hamas, and that defendant's unlawful acts

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1 proximately caused plaintiffs' injuries from that attack.

2 Proof of liability relating to one alleged terrorist
3 attack, does not automatically constitute proof of liability
4 relating to any other alleged terrorist attack. You have to
5 consider each of the 24 attacks at issue here, separately.

6 Similarly, evidence that might be relevant to one
7 attack, might not be relevant to others. In considering
8 whether a particular item of evidence is relevant to a
9 particular attack, you should use your common sense. Evidence
10 of events or actions that occurred long before or long after a
11 particular terrorist attack, may not be relevant to that
12 attack.

13 Now, as I noted, the defendant is a corporate,
14 corporation, corporate entity. A corporation is a legal
15 entity that may act only through its agents. The agents of a
16 corporation are its officers, directors, employees, and
17 certain others who are authorized by the corporation to act
18 for it.

19 In order for plaintiffs to sustain their burden of
20 proof for their claims against defendant, plaintiffs must
21 prove by a preponderance of the evidence that the elements
22 required for liability that I have just explained to you in
23 these instructions, were committed by an officer, director,
24 employee, or agent of the corporation.

25 The law holds a corporation responsible for all

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1 unlawful acts of its directors, or officers, or employees, or
2 other agents, provided the unlawful acts are done within the
3 scope of their authority. As would usually be the case if
4 done in the ordinary course of their employment or in the
5 ordinary course of the corporation's business.

6 Authority to act for a corporation in a particular
7 matter, or in a particular way or manner, maybe inferred from
8 the surrounding facts and circumstances shown by the evidence
9 in the case.

10 Authority to act for a corporation, like any other
11 fact in issue, in a civil case, need not be established by
12 direct evidence, but maybe established by indirect or
13 circumstantial evidence.

14 (Transcript continues on next page.)
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Charge of the Court

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1 Now, you heard evidence concerning defendant's
2 policies and procedures, and banking industry standards and
3 practices. You may consider this evidence in deciding whether
4 the defendant acted knowingly. A defendant who violates an
5 industry standard is not necessarily liable under the Anti
6 Terrorism Act if the defendant did not knowingly provide
7 material support to a foreign terrorist organization, as I
8 have already defined those terms for you. Conversely,
9 compliance with industry standards does not necessarily shield
10 a defendant who knowingly provides material support to a
11 foreign terrorist organization. However, I instruct you that
12 you are only to consider evidence concerning defendant's
13 policies and procedures or compliance with banking industry
14 standards and practices with regard to its mental state
15 regarding the account for which it produced complete records.
16 That is, the Beirut account of Osama Hamdan. You recall
17 that's the only account for which the plaintiffs were given
18 complete financial records.

19 Now, at times during the trial, you have also heard
20 references to the laws of foreign nations, including Israel,
21 Palestine, Jordan, Lebanon and others. You are not to
22 consider whether any conduct was illegal or legal under the
23 laws of any other nation. You are to concern yourself solely
24 with the laws of the United States that I have described in
25 these instructions.

Charge of the Court

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1 All right. That completes part two.

2 Part three is very short. Bear with me here.

3 Now, I have outlined for you the rules of law
4 applicable to the allegations in this case and the processes
5 by which you should weigh the evidence and determine the
6 facts. I will give you some guidance to use in your
7 deliberations.

8 You are about to go into the jury room to begin your
9 deliberations. More likely, I'll have you start tomorrow
10 morning. Your function, to reach a fair conclusion from the
11 law and the evidence is a very important one. Your verdict
12 has to be unanimous. That is, all of you must ultimately
13 reach the same conclusion.

14 Each juror is entitled to his or her opinion. Each
15 should, however, exchange views with their fellow jurors.
16 That's the very purpose of jury deliberations -- to discuss
17 and consider the evidence; to listen to the arguments of
18 fellow jurors; to present your individual views; to consult
19 with one another; and to reach an agreement based solely and
20 wholly on the evidence, if you can do so without violence to
21 your own individual judgment.

22 Each of you has to decide the case for yourself
23 after consideration of the evidence in the case with your
24 fellow jurors. You should not hesitate to change an opinion
25 which, after discussion with your fellow jurors, appears

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1 erroneous. However, if, after carefully considering all of
2 the evidence and the arguments of your fellow jurors, you
3 entertain a conscientious view that differs from the others,
4 you are not to yield your conviction simply because you are
5 outnumbered. Your final vote must reflect your conscientious
6 conviction as to how the issues should be decided.

7 Now, no member of the jury should attempt to
8 communicate with me or any court personnel by any means other
9 than a signed writing. All communication has to be signed in
10 writing by your foreperson -- and I'll tell you how you get
11 your foreperson -- and given to one of the marshals, who is
12 going to be standing right outside your door at all times.
13 I'll respond to any questions or requests that you have as
14 promptly as possible, either in writing or, more likely, I'll
15 bring you back into open court, so I can speak to you in
16 person. In any event, if we have any of those written
17 communications, or are bringing you into court, you are not to
18 tell me, even here in open court nor in a note that you send
19 to me, how the jury stands numerically or otherwise on the
20 issue of defendant's liability until after a unanimous verdict
21 is reached. I'm not going to communicate with any member of
22 the jury on any subject touching on the merits of the case
23 other than in writing or orally here in open court.

24 Now, all exhibits admitted into evidence are going
25 to be brought in to you in the jury room. The only exception

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1 to that is, we don't have any machines by which you could
2 watch the videos. So, if there's any video that you want to
3 see, just let us know, and we'll bring you into the courtroom
4 so that you can watch it here.

5 If you find you need to have a portion of the
6 testimony read back to you, that can be done. However, please
7 remember that it's not always easy to locate what you want.
8 So, if you want something read back to you, please be as
9 specific as you possibly can in requesting portions of
10 testimony that you may want to review. You know, tell us what
11 witness, what topic from that witness, anything else you can
12 to help us hone in on the portion of the transcript that you
13 want to hear.

14 When you've reached a verdict, what you do is, you
15 take an ordinary piece of note from your notepad -- your
16 foreperson will do this -- sign it, and say, We have reached a
17 unanimous verdict. That's all the note says. Don't indicate
18 in that note what the verdict is. I prepared a verdict form,
19 which I think both sides showed you during their closing
20 argument, and it's very straightforward. It basically
21 says, "Applying all the instructions that I have given you and
22 considering each of the elements of the claims as to each
23 attack, is the defendant liable?" And then
24 there's "Twenty-four attacks," and you check yes or no as to
25 each one.

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1 After the questions are completed, the foreperson
2 should sign and date that verdict form, and you bring it into
3 the courtroom with you when I call you back to deliver your
4 verdict, so that the way it works, the first thing we get from
5 you is a note from your foreperson which says, "We have
6 reached a unanimous verdict," signed, foreperson. I then
7 bring you back into the courtroom, and I will ask you, "Is
8 that right? Do you have a unanimous verdict?" And when you
9 tell me you do, then I'll have Ms. Clark pick up the verdict
10 form from you, and she'll hand it to me.

11 Now, with regard to the verdict form, you may not
12 infer, from the fact that questions are submitted to you or
13 from the wording of how the form is set up or from anything
14 that I have said or say in instructing you concerning those
15 questions that I said just now, that I have any view as to how
16 you should answer those questions. I have no view. Again,
17 this is your job. You're going to have to answer those
18 questions yourself.

19 Your oath sums up your duty, and that is, that you
20 will, without fear or favor to any person, conscientiously and
21 truly try the issues before you according to the evidence
22 given to you in court under the law.

23 Now, let me say two more things to you. First, it's
24 been very clear to me that you are a very collegial jury and
25 you're getting along very well. I therefore am going to let

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1 you pick your own foreperson. I recommend to you that you
2 spend very little time doing that. The foreperson doesn't get
3 paid any more, really doesn't have any more authority than
4 anybody else. They serve as the communication point with the
5 Court. Get it out of the way fast.

6 And then I think the way we'll work it now, we'll
7 have a court officer come up, have him sworn to take you to a
8 secluded place, because that's the way we have been doing this
9 for 300 years, then he'll take you into the jury room now.
10 Once you're in the jury room, you are dismissed and you can go
11 home. I think it would be foolish to have you start
12 deliberating tonight. What I want you to do instead is come
13 back promptly again by 9:30 tomorrow morning and start your
14 deliberations then.

15 I'm not going to call you into open court to do
16 that, but I do want to advise you that you can't start your
17 deliberations tomorrow morning at 9:30 until all eleven of you
18 are in the room. So, don't start talking about the case until
19 everyone is there, and then you'll pick your foreperson and
20 your deliberations will commence.

21 With that, I'll have the court officer sworn, and
22 then I'll give you your normal admonition for today: Please,
23 no research, Internet or otherwise. Stay away from any media
24 coverages. No communications. No postings on any web sites,
25 anything about the case. And we will see you tomorrow morning

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1 at 9:30. Report directly to that jury room behind us, as you
2 have been doing.

3 Let's have the court officer sworn.

4 (Court officer sworn.)

5 THE COURT: All right. Ladies and gentlemen, you
6 are dismissed for the evening. Once you hit the jury room,
7 have a good night.

8 (Jury excused.)

9 THE COURT: All right. Be seated. I think I took
10 care of Mr. Osen's problem with the videos; right?

11 MR. OSEN: The videos?

12 THE COURT: I thought you had a problem. You wanted
13 to make sure they knew they had access to the videos.

14 MR. OSEN: I think the issue with the videos is
15 resolved. But to be honest, I don't really know what it was.

16 THE COURT: That's fine.

17 Now, it should not be a big deal to put together the
18 exhibits and get it into the jury room. Do I have any reason
19 to think there's going to be a problem with that?

20 MR. INGERMAN: I think we worked through all of the
21 issues except for one. The plaintiffs suggested that the
22 deposition designations go back. That's never been my
23 experience, and your Honor's instruction, it's as if they
24 testified from the witness stand.

25 THE COURT: I agree with that. I don't send back